

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To make a technical correction.

**IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.**

**S. 2191**

To direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by \_\_\_\_\_

Viz:

1 Strike title VI and insert the following:

2 **TITLE VI—** \_\_\_\_\_

3 **SEC. 6001. DEFINITIONS.**

4 In this title:

5 (1) **BASELINE EMISSION LEVEL.**—The term  
6 “baseline emission level” means, as determined by  
7 the Administrator, the total average annual green-  
8 house gas emissions attributed to a category of cov-  
9 ered goods of a foreign country during the period be-

1       ginning on January 1, 2012, and ending on Decem-  
2       ber 31, 2014, based on—

3               (A) relevant data available for that period;  
4       and

5               (B) to the extent necessary with respect to  
6       a specific category of covered goods, economic  
7       and engineering models and best available infor-  
8       mation on technology performance levels for the  
9       manufacture of that category of covered goods.

10       (2) COMPARABLE ACTION.—The term “com-  
11       parable action” means any greenhouse gas regu-  
12       latory programs, requirements, and other measures  
13       adopted by a foreign country that, in combination,  
14       are comparable in effect to actions carried out by  
15       the United States to limit greenhouse gas emissions  
16       pursuant to this Act, as determined by the Presi-  
17       dent, taking into consideration the level of economic  
18       development of the foreign country.

19       (3) COMPLIANCE YEAR.—The term “compliance  
20       year” means each calendar year for which the re-  
21       quirements of this title apply to a category of cov-  
22       ered goods of a covered foreign country that is im-  
23       ported into the United States.

24       (4) COVERED FOREIGN COUNTRY.—The term  
25       “covered foreign country” means a foreign country

1       that is included on the covered list prepared under  
2       section 6006(b)(3).

3           (5) COVERED GOOD.—The term “covered good”  
4       means a good that (as identified by the Adminis-  
5       trator by rule)—

6           (A) is a primary product;

7           (B) generates, in the course of the manu-  
8       facture of the good, a substantial quantity of  
9       direct greenhouse gas emissions and indirect  
10      greenhouse gas emissions; and

11          (C) is closely related to a good the cost of  
12      production of which in the United States is af-  
13      fected by a requirement of this Act.

14          (6) FOREIGN COUNTRY.—The term “foreign  
15      country” means a member of, or observer govern-  
16      ment to, the World Trade Organization (WTO),  
17      other than the United States.

18          (7) INDIRECT GREENHOUSE GAS EMISSIONS.—  
19      The term “indirect greenhouse gas emissions”  
20      means any emissions of a greenhouse gas resulting  
21      from the generation of electricity that is consumed  
22      during the manufacture of a good.

23          (8) INTERNATIONAL AGREEMENT.—The term  
24      “international agreement” means any international  
25      agreement to which the United States is a party, in-

1 cluding the Marrakesh agreement establishing the  
2 World Trade Organization, done at Marrakesh on  
3 April 15, 1994.

4 (9) INTERNATIONAL RESERVE ALLOWANCE.—  
5 The term “international reserve allowance” means  
6 an allowance (denominated in units of metric tons of  
7 carbon dioxide equivalent) that is—

8 (A) purchased from a special reserve of al-  
9 lowances pursuant to section 6006(a)(2); and

10 (B) used for purposes of meeting the re-  
11 quirements of section 6006.

12 (10) PRIMARY PRODUCT.—The term “primary  
13 product” means—

14 (A) iron, steel, aluminum, cement, bulk  
15 glass, or paper; or

16 (B) any other manufactured product  
17 that—

18 (i) is sold in bulk for purposes of fur-  
19 ther manufacture; and

20 (ii) generates, in the course of the  
21 manufacture of the product, direct green-  
22 house gas emissions and indirect green-  
23 house gas emissions that are comparable  
24 (on an emissions-per-dollar basis) to emis-  
25 sions generated in the manufacture of

1 products by covered facilities in the indus-  
2 trial sector.

3 **SEC. 6002. PURPOSES.**

4 The purposes of this title are—

5 (1) to promote a strong global effort to signifi-  
6 cantly reduce greenhouse gas emissions;

7 (2) to ensure, to the maximum extent prac-  
8 ticable, that greenhouse gas emissions occurring out-  
9 side the United States do not undermine the objec-  
10 tives of the United States in addressing global cli-  
11 mate change; and

12 (3) to encourage effective international action  
13 to achieve those objectives through—

14 (A) agreements negotiated between the  
15 United States and foreign countries; and

16 (B) measures carried out by the United  
17 States that comply with applicable international  
18 agreements.

19 **SEC. 6003. INTERNATIONAL NEGOTIATIONS.**

20 (a) FINDING.—Congress finds that the purposes de-  
21 scribed in section 6002 can be most effectively addressed  
22 and achieved through agreements negotiated between the  
23 United States and foreign countries.

24 (b) NEGOTIATING OBJECTIVE.—

1           (1) STATEMENT OF POLICY.—It is the policy of  
2           the United States to work proactively under the  
3           United Nations Framework Convention on Climate  
4           Change and, in other appropriate forums, to estab-  
5           lish binding agreements committing all major green-  
6           house gas-emitting nations to contribute equitably to  
7           the reduction of global greenhouse gas emissions.

8           (2) INTENT OF CONGRESS REGARDING OBJEC-  
9           TIVE.—To the extent that the agreements described  
10          in subsection (a) involve measures that will affect  
11          international trade in any good or service, it is the  
12          intent of Congress that the negotiating objective of  
13          the United States shall be to focus multilateral and  
14          bilateral international agreements on the reduction  
15          of greenhouse gas emissions to advance achievement  
16          of the purposes described in section 6002.

17 **SEC. 6004. INTERAGENCY REVIEW.**

18          (a) INTERAGENCY GROUP.—

19               (1) ESTABLISHMENT.—The President shall es-  
20               tablish an interagency group to carry out this sec-  
21               tion.

22               (2) CHAIRPERSON.—The chairperson of the  
23               interagency group established under paragraph (1)  
24               shall be the Secretary of State.

1           (3) REQUIREMENT.—The Administrator shall  
2       be a member of the interagency group.

3       (b) DETERMINATIONS.—

4           (1) IN GENERAL.—Subject to paragraph (2),  
5       the interagency group established under subsection  
6       (a)(1) shall determine whether, and the extent to  
7       which, each foreign country has taken comparable  
8       action to limit the greenhouse gas emissions of the  
9       foreign country.

10          (2) EXEMPTION.—The interagency group may  
11       exempt from a determination under paragraph (1)  
12       any foreign country on the excluded list under sec-  
13       tion 6006(b)(2).

14       (c) REPORT TO PRESIDENT.—Not later than Janu-  
15       ary 1, 2018, and annually thereafter, the interagency  
16       group shall submit to the President a report describing  
17       the determinations of the interagency group under sub-  
18       section (b).

19       **SEC. 6005. PRESIDENTIAL DETERMINATIONS.**

20       (a) IN GENERAL.—Not later than January 1, 2019,  
21       and annually thereafter, the President shall determine  
22       whether each foreign country that is subject to interagency  
23       review under section 6004(b) has taken comparable action  
24       to limit the greenhouse gas emissions of the foreign coun-  
25       try, taking into consideration—

1 (1) the baseline emission levels of the foreign  
2 country; and

3 (2) applicable reports submitted under section  
4 6004(c).

5 (b) REPORTS.—The President shall—

6 (1) submit to Congress an annual report de-  
7 scribing the determinations of the President under  
8 subsection (a) for the most recent calendar year; and

9 (2) publish the determinations in the Federal  
10 Register.

11 **SEC. 6006. INTERNATIONAL RESERVE ALLOWANCE PRO-**  
12 **GRAM.**

13 (a) ESTABLISHMENT.—

14 (1) IN GENERAL.—The Administrator shall es-  
15 tablish a program under which the Administrator,  
16 during the 1-year period beginning on January 1,  
17 2019, and annually thereafter, shall offer for sale to  
18 United States importers international reserve allow-  
19 ances in accordance with this subsection.

20 (2) SOURCE.—International reserve allowances  
21 under paragraph (1) shall be issued from a special  
22 reserve of allowances that is separate from, and es-  
23 tablished in addition to, the quantity of allowances  
24 established under section 1201.

25 (3) PRICE.—



1 (A) IN GENERAL.—Subject to subpara-  
2 graph (B), the Administrator shall establish, by  
3 rule, a methodology for determining the price of  
4 international reserve allowances for each com-  
5 pliance year at a level that does not exceed the  
6 market price of allowances established under  
7 section 1201 for the compliance year.

8 (B) MAXIMUM PRICE.—The price for an  
9 international reserve allowance under subpara-  
10 graph (A) shall not exceed the clearing price for  
11 current compliance year allowances established  
12 at the most recent auction of allowances by the  
13 Corporation.

14 (4) SERIAL NUMBER.—The Administrator shall  
15 assign a unique serial number to each international  
16 reserve allowance issued under this subsection.

17 (5) TRADING SYSTEM.—The Administrator may  
18 establish, by rule, a system for the sale, exchange,  
19 purchase, transfer, and banking of international re-  
20 serve allowances.

21 (6) REGULATED ENTITIES.—International re-  
22 serve allowances may not be submitted by regulated  
23 entities to comply with the allowance submission re-  
24 quirements of section 1202.

(7) PROCEEDS.—All proceeds from the sale of international reserve allowances under this subsection shall be allocated to a program that the Administrator, in coordination with the Secretary of State, shall establish to mitigate the negative impacts of global climate change on disadvantaged communities in other countries.

8 (b) FOREIGN COUNTRY LISTS.—

(1) IN GENERAL.—Not later than January 1, 2020, and annually thereafter, the President shall develop and publish in the Federal Register 2 lists of foreign countries, in accordance with this subsection.

14 (2) EXCLUDED LIST.—

15 (A) IN GENERAL.—The President shall  
16 identify and publish in a list, to be known as  
17 the “excluded list”—

(i) each foreign country determined by the President under section 6005(a) to have taken action comparable to that taken by the United States to limit the greenhouse gas emissions of the foreign country; and

(ii) each foreign country the share of  
total global greenhouse gas emissions of

1 which is below the de minimis percentage  
2 described in subparagraph (B).

3 (B) DE MINIMIS PERCENTAGE.—The de  
4 minimis percentage referred to in subparagraph  
5 (A) is a percentage of total global greenhouse  
6 gas emissions of not more than 0.5, as deter-  
7 mined by the President, for the most recent cal-  
8 endar year for which emissions and other rel-  
9 evant data is available, taking into consider-  
10 ation, as necessary, the annual average defor-  
11 estation rate during a representative period for  
12 a foreign country that is a developing country.

13 (3) COVERED LIST.—

14 (A) IN GENERAL.—The President shall  
15 identify and publish in a list, to be known as  
16 the “covered list”, each foreign country the cov-  
17 ered goods of which are subject to the require-  
18 ments of this section.

19 (B) REQUIREMENT.—The covered list shall  
20 include each foreign country that is not in-  
21 cluded on the excluded list under paragraph  
22 (2).

23 (c) WRITTEN DECLARATIONS.—

24 (1) IN GENERAL.—Effective beginning January  
25 1, 2020, a United States importer of any covered

1 good shall, as a condition of importation or with-  
2 drawal for consumption from a warehouse of the  
3 covered good, submit to the Administrator and the  
4 appropriate office of the U.S. Customs and Border  
5 Protection a written declaration with respect to each  
6 such importation or withdrawal.

7 (2) CONTENTS.—A written declaration under  
8 paragraph (1) shall contain a statement that—

9 (A) the applicable covered good is accom-  
10 panied by a sufficient number of international  
11 reserve allowances, as determined under sub-  
12 section (d); or

13 (B) the covered good is from a foreign  
14 country on the excluded list under subsection  
15 (b)(2).

16 (3) INCLUSION.—A written declaration de-  
17 scribed in paragraph (2)(A) shall include the unique  
18 serial number of each emission allowance associated  
19 with the importation of the applicable covered good.

20 (4) FAILURE TO DECLARE.—

21 (A) IN GENERAL.—Except as provided in  
22 subparagraph (B), an imported covered good  
23 that is not accompanied by a written declara-  
24 tion under this subsection shall not be per-

1           mitted to enter the customs territory of the  
2           United States.

3           (B) EXCEPTION FOR CERTAIN IMPORTS.—  
4           Subparagraph (A) shall not apply to a covered  
5           good of a foreign country if the President deter-  
6           mines that—

7                   (i) the foreign country has taken com-  
8                   parable action to limit the greenhouse gas  
9                   emissions of the foreign country, in accord-  
10                  ance with section 6005;

11                  (ii) the United Nations has identified  
12                  the foreign country as among the least-de-  
13                  veloped of developing countries; or

14                  (iii) the foreign country is on the ex-  
15                  cluded list under subsection (b)(2).

16           (5) CORRECTED DECLARATION.—

17           (A) IN GENERAL.—If, after making a dec-  
18           laration required under this subsection, an im-  
19           porter has reason to believe that the declaration  
20           contains information that is not correct, the im-  
21           porter shall provide a corrected declaration by  
22           not later than 30 days after the date of dis-  
23           covery of the error, in accordance with subpara-  
24           graph (B).

1 (B) METHOD.—A corrected declaration  
2 under subparagraph (A) shall be in the form of  
3 a letter or other written statement to the Ad-  
4 ministrator and the office of the U.S. Customs  
5 and Border Protection to which the original  
6 declaration was submitted.

7 (d) QUANTITY OF ALLOWANCES REQUIRED.—

8 (1) METHODOLOGY.—

9 (A) IN GENERAL.—The Administrator  
10 shall establish, by rule, a method for calculating  
11 the required number of international reserve al-  
12 lowances that a United States importer must  
13 submit, together with a written declaration  
14 under subsection (c), for each category of cov-  
15 ered goods of each covered foreign country.

16 (B) FORMULA.—The Administrator shall  
17 develop a general formula for calculating the  
18 international reserve allowance requirement  
19 that applies, on a per unit basis, to each cov-  
20 ered good of a covered foreign country that is  
21 imported during each compliance year.

22 (2) INITIAL COMPLIANCE YEAR.—

23 (A) IN GENERAL.—Subject to subpara-  
24 graph (B), the methodology under paragraph  
25 (1) shall establish an international reserve al-

1 allowance requirement (per unit imported into the  
2 United States) for the initial compliance year  
3 for each category of covered goods of each cov-  
4 ered foreign country that is equal to the  
5 quotient obtained by dividing—

6 (i) the excess, if any, of the total  
7 emissions from the covered foreign country  
8 that are attributable to the category of  
9 covered goods produced during the most  
10 recent year for which data are available,  
11 over the baseline emission level of the cov-  
12 ered foreign country for that category; and

13 (ii) the total quantity of the covered  
14 good produced in the covered foreign coun-  
15 try during the most recent calendar year.

16 (B) ADJUSTMENTS.—The Administrator  
17 shall adjust the requirement under subpara-  
18 graph (A)—

19 (i) in accordance with the ratio that—

20 (I) the quantity of allowances  
21 that were allocated at no cost to enti-  
22 ties within the industry sector manu-  
23 facturing the covered goods for the  
24 compliance year during which the cov-

1                   ered goods were imported into the  
2                   United States; bears to  
3                   (II) the greenhouse gas emissions  
4                   of that industry sector; and  
5                   (ii) to take into account the level of  
6                   economic development of the covered for-  
7                   eign country in which the covered goods  
8                   were produced.

9                   (3) SUBSEQUENT COMPLIANCE YEARS.—For  
10                  each subsequent compliance year, the Administrator  
11                  shall revise, as appropriate, the international reserve  
12                  allowance requirement applicable to each category of  
13                  imported covered goods of each covered foreign  
14                  country to reflect changes in the factors described in  
15                  paragraph (2)(B).

16                  (4) PUBLICATION.—Not later than 90 days be-  
17                  fore the beginning of each compliance year, the Ad-  
18                  ministrator shall publish in the Federal Register a  
19                  schedule describing the required number of inter-  
20                  national reserve allowances for each category of im-  
21                  ported covered goods of each covered foreign coun-  
22                  try, as calculated under this subsection.

23                  (e) FOREIGN ALLOWANCES AND CREDITS.—

24                  (1) FOREIGN ALLOWANCES.—



1 (A) IN GENERAL.—A United States im-  
2 porter may submit, in lieu of an international  
3 reserve allowance issued under this section, a  
4 foreign allowance or similar compliance instru-  
5 ment distributed by a foreign country pursuant  
6 to a cap and trade program that represents a  
7 comparable action.

8 (B) COMMENSURATE CAP AND TRADE PRO-  
9 GRAM.—For purposes of subparagraph (A), a  
10 cap and trade program that represents a com-  
11 parable action shall include any greenhouse gas  
12 regulatory program adopted by a covered for-  
13 eign country to limit the greenhouse gas emis-  
14 sions of the covered foreign country, if the  
15 President certifies that the program—

16 (i)(I) places a quantitative limitation  
17 on the total quantity of greenhouse gas  
18 emissions of the covered foreign country  
19 (expressed in terms of tons emitted per  
20 calendar year); and

21 (II) achieves that limitation through  
22 an allowance trading system;

23 (ii) satisfies such criteria as the Presi-  
24 dent may establish for requirements relat-  
25 ing to the enforceability of the cap and

1 trade program, including requirements for  
2 monitoring, reporting, verification proce-  
3 dures, and allowance tracking; and

4 (iii) is a comparable action.

5 (2) FOREIGN CREDITS.—

6 (A) IN GENERAL.—A United States im-  
7 porter may submit, in lieu of an international  
8 reserve allowance issued under this section, a  
9 foreign credit or a credit for an international  
10 offset project that the Administrator has au-  
11 thorized for use under subtitle E of title II.

12 (B) APPLICATION.—The limitation on the  
13 use of international reserve allowances by regu-  
14 lated entities under subsection (a)(6) shall not  
15 apply to a United States importer for purposes  
16 of this paragraph.

17 (f) RETIREMENT OF ALLOWANCES.—The Adminis-  
18 trator shall retire each international reserve allowance,  
19 foreign allowance, and foreign credit submitted to achieve  
20 compliance with this section.

21 (g) CONSISTENCY WITH INTERNATIONAL AGREE-  
22 MENTS.—The Administrator, in consultation with the Sec-  
23 retary of State, shall adjust the international reserve al-  
24 lowance requirements established under this section (in-  
25 cluding the quantity of international reserve allowances re-

1 quired for each category of covered goods of a covered for-  
2 eign country) as the Administrator determines to be nec-  
3 essary to ensure that the United States complies with all  
4 applicable international agreements.

5 (h) TERMINATION.—The international reserve allow-  
6 ance requirements of this section shall not apply to a cov-  
7 ered good of a covered foreign country in any case in  
8 which the President makes a determination described in  
9 subsection (b)(2) with respect to the covered goods of that  
10 covered foreign country.

11 (i) FINAL REGULATIONS.—Not later than January 1,  
12 2019, the Administrator shall promulgate such regulations  
13 as the Administrator determines to be necessary to carry  
14 out this section.

15 **SEC. 6007. ADJUSTMENT OF INTERNATIONAL RESERVE AL-**  
16 **LOWANCE REQUIREMENTS.**

17 (a) IN GENERAL.—Not later than January 1, 2023,  
18 and annually thereafter, the President shall prepare and  
19 submit to Congress a report that assesses the effectiveness  
20 of the applicable international reserve allowance require-  
21 ments under section 6006 with respect to the covered  
22 goods of each covered foreign country.

23 (b) INADEQUATE REQUIREMENTS.—If the President  
24 determines that an applicable international reserve allow-  
25 ance requirement is not adequate to achieve the purposes

1 of this title, the President, simultaneously with the sub-  
2 mission of the report under subsection (a), shall—

3 (1) adjust the requirement; or

4 (2) take such other action as the President de-  
5 termines to be necessary to improve the effectiveness  
6 of the requirement, in accordance with all applicable  
7 international agreements.

8 (c) EFFECTIVE DATE.—An adjustment under sub-  
9 section (b)(1) shall take effect beginning on January 1  
10 of the compliance year immediately following the date on  
11 which the adjustment is made.